

H-2B ABUSE BY CONSTRUCTION AND LANDSCAPING COMPANIES

BrightView Landscapes LLC

Number of Certified H-2B Visas in the Past 3 Years: 5,038

Number of Certified H-2B Visas in FY 18: 3,464 (Landscaping and Groundskeeping Workers)

Headquarters: Rockville, Maryland; has locations in 30 states: Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, California

District Representative: Jamie Raskin (D-MD-08)

BrightView Landscapes LLC was formed after a merger in 2014 between The Brickman Group LTD and ValleyCrest Landscaping companies, both of which had violated labor laws prior to the merger. It began operating as BrightView in 2015.

The company and its predecessors have consistently been among the top ten H-2B employers since 2014. As of Q3 FY 2018 they have received the most H-2B visas of any company. They have a history of abusing both American workers, wage and hour laws, and the H-2B program.

- In October 2017, a judge in Pennsylvania ordered BrightView to pay over \$4.77 million to workers for violations of the Fair Labor Standards Act. The Brickman Group paid a salary, but only received fluctuating workweek type half-time overtime pay for hours worked over 40 hours in a workweek (meaning at a rate that decreased with each overtime hour worked, rather than at time-and-a-half their hourly rate).
- In 2010, ValleyCrest was charged for hiring discrimination against U.S. citizens and other work-authorized domestic workers at its locations in Virginia in Rep. Barbara Comstock's district (R-VA-10). ValleyCrest was ordered by DOJ to pay \$11,173 in back pay to a U.S. citizen who applied for but was not given a job.
- In 2008, a lawsuit filed in Pennsylvania alleged Brickman's recruitment practices led to H-2B applicants' pay falling below the federal minimum wage. Brickman required workers to apply through designated recruiters in each country. The recruiters charged applicants fees between \$50 and \$155 plus transportation costs, visa costs, etc. After subtracting these additional costs, the workers' wages fell below all federal, legal minimums. The case was ultimately settled.
- BrightView has incurred fines for several serious OSHA violations between 2016 and 2018, including regulations on control of hazardous energy and mounted elevating and rotating work platforms.

Genuine Builders

Number of Certified H-2B Visas in the Past 3 Years: 1,643

Number of Certified H-2B Visas in FY 18: 275 (Construction Laborers)

Headquarters: Arlington, South Dakota

District Representative: Dusty Johnson (R-SD-At-Large)

Genuine Builders is a concrete contractor which does work across the Great Lakes region. It has a long history of abusing the H-2B program, and was the top H-2B employer in any industry in FY 2016. Genuine Builders frequently cut corners. Has done work in Nebraska, Minnesota, South Dakota, Idaho, Wisconsin, North Dakota, Indiana, Iowa, Kansas, Montana, Illinois, Washington, Colorado

- In March 2006, the DOL fined Genuine Builders after a 16-year-old was killed on a Genuine Builders jobsite by a skid loader.
- In 2013, Genuine Builders was required by DOL to pay over \$180,000 for violations of the Fair Labor Standards Act and H-2B program violations in a case involving 132 workers. The company was fined \$41,648 and was required to pay \$146,642.58 in back wages for violations of overtime laws (\$63,130.22) and H-2B rules (\$83,512.36).
- In 2013 it was fined by OSHA for serious safety violations in Rep. Adrian Smith's district (R-NE-03).
- In 2013-2018, the IRS filed federal tax liens against the company and its owner totaling nearly \$2.5 million.
- In 2015, the Fair Contracting Foundation of Minnesota filed a complaint citing evidence that Genuine Builders was violating H-2B rules by using workers originally approved to work in South Dakota for an Archer Daniels Midland project in Glencoe, Minnesota, in Rep. Collin Peterson's district (R-MN-07).
- Beginning in 2015, Genuine Builders' trucks were cited by the Federal Motor Carrier Safety Administration for 2 violations, including insufficient tiedowns to prevent forward movement for load not blocked by headerboard, bulkhead, or other cargo, as well as record of duty status violation.
- In 2016, a LIUNA organizer visited the addresses of several jobsites listed by Genuine Builders in its H-2B applications. In Arlington, South Dakota, the office did not appear to be a construction outfit that could have the number of employees claimed. Another application listed an office for Falls Flatwork LLC in Sioux Falls and requested 30 workers. There was no sign of a Falls Flatwork at that site; the tenant in the address listed was a company called Unique Swine Marketing Inc.
- Genuine Builders also avoids hiring local workers. It applied for 30 H-2B concrete laborers in 2016 for a jobsite in Rep. Steve King's district (R-IA-04) in Sergeant Bluff, Iowa. The address to apply turned out to be an empty trailer in a cornfield. There appeared to be no work going on at the proposed worksite, which turned out to be a building housing Missouri Valley Steel Co.

Despite multiple findings of violation against the law, Genuine Builders continues to receive H-2B visas.

Triple H Services LLC

Number of Certified H-2B Visas in the Past 3 Years: 1,631

Number of Certified H-2B Visas in FY 18: 752 (Landscaping and Groundskeeping Workers)

Headquarters: Newland, North Carolina

District Representative: Virginia Foxx (R-NC-05)

Triple H is a landscaping company which does business in Virginia, North Carolina, South Carolina, Kentucky, and Tennessee.

- In 2018 the Department of Justice found that the company used misleading tactics to prevent or deter U.S. workers from applying to over 450 job vacancies across five states. Triple H did not consider several qualified U.S. applicants who applied in Virginia.
 - DOJ also found that the company prematurely closed the online job application process, filled positions with H-2B workers without advertising the jobs in relevant locations, and did not make its online advertisements visible to job seekers on state workforce agency online services.
 - Triple H was ordered to pay up to \$85,000 in back pay and fined \$15,600 in civil penalties. It is also required to engage in “enhanced recruitment activities” before using H-2B, and is subject to DOJ monitoring for three years.
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LandCare USA, LLC

Number of Certified H-2B Visas in the Past 3 Years: 1,372

Number of Certified H-2B Visas in FY 18: 456 (Landscaping and Groundskeeping Workers)

Headquarters: Frederick, Maryland

District Representative: David Trone (D-MD-06)

LandCare USA is a landscaping company that does business nationwide.

- In 2017, LandCare’s Austin, Texas location based in Rep. Michael McCaul’s district (R-TX-10) entered into a conciliation agreement with the Office of Federal Contractor Compliance (OFCCP) for discriminating against females and non-Hispanic applicants in its Laborer job group. LandCare agreed to pay \$100,000 in back pay to 361 affected class members and to offer employment to 45 eligible class members.
 - Also in 2017, the company’s Las Vegas, Nevada location based in Rep. Dina Titus’ district (D-01-NV) entered into a separate conciliation agreement with OFCCP for discrimination against non-Hispanic applicants for a Laborer Non-Driver position. It agreed to pay \$161, 899 in back pay and offer employment to eligible class members.
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Progressive Solutions, LLC

Number of Certified H-2B Visas in the Past 3 Years: 4,107

Number of Certified H-2B Visas in FY 18: 1,498 (Landscaping and Groundskeeping Workers; First-Line Supervisors of Landscaping, Lawn)

Headquarters: Marshall, Arkansas; has locations across the East Coast, South, and Midwest

District Representative: Rick Crawford (R-AR-01)

Progressive Solutions is a vegetation management company based in Arkansas. In 2013 it received \$7,800 in penalties for undisclosed OSHA violations. In 2015 OSHA found an unspecified safety violation at the company's Finley, Kentucky location.

Rotolo Consultants, Inc.

Number of Certified H-2B Visas in the Past 3 Years: 1,120

Number of Certified H-2B Visas in FY 18: 528 (Landscaping and Groundskeeping Workers)

Headquarters: Slidell, Louisiana

District Representative: Steve Scalise (R-LA-01)

Rotolo Consultants does design, construction, and maintenance landscaping for commercial and residential clients. In 2011, the company was fined by OSHA for failing to meet excavation requirements as well as requirements for protective equipment.

Mulford Concrete, Inc.

Number of Certified H-2B Visas in the Past 3 Years: 90

Number of Certified H-2B Visas in FY 18: 30 (Construction Laborers)

Headquarters: Hampton, Iowa

District Representative: Steve King (R-IA-04)

A LIUNA organizer filed an affidavit in 2017 detailing observations and communications with Mulford Concrete workers at the POET biorefinery in Marion, Ohio, part of Rep. Jim Jordan's district (R-OH-04). Approximately 20 or more H-2B workers worked at the plant. Mulford workers were being transported from Iowa to the plant by van. Mulford Concrete only had one active H-2B application for 30 workers who were limited to the state of Iowa.

Metropolitan Concrete Corp.

Number of Certified H-2B Visas in the Past 3 Years: 55

Number of Certified H-2B Visas in FY 18: 15 (Cement Masons and Concrete Finishers)

Headquarters: Sterling Heights, MI

District Representative: Paul Mitchell (R-MI-10)

Michigan-based Metropolitan Concrete Corp. is a concrete contractor that does commercial and residential business.

- In 2018 it was ordered by DOL to pay \$73,647 in back wages to 15 H-2B employees improperly classified as landscapers who actually worked as cement masons and concrete finishers, meaning that the company was able to pay the workers a lower prevailing wage rate. The misleading classification may have resulted in fewer U.S. workers applying for the advertised job.
- The company failed to comply with basic requirements such as paying transportation costs and providing equipment needed to perform job duties, and were found by DOL to have inappropriately deducted workers' pay for housing expenses.

The company was still certified for 15 H-2B positions for FY 2018, this time for workers under the Cement Masons and Concrete Finishers occupation title.

Greenscape Land Design, Inc.

Number of Certified H-2B Visas in the Past 3 Years: 23

Number of Certified H-2B Visas in FY 18: 12 (Segmental Pavers for landscape maintenance)

Headquarters: Raynham, Massachusetts, with branches in Taunton, MA, Bellingham, MA, Nashua, NH, Alexandria, VA, and Brookfield, CT.

District Representative: Joseph P. Kennedy III (D-MA-04); Ann Kuster (D-NH-02); Don Beyer (D-VA-08); Jahana Hayes (D-CT-5)

Greenscape is a landscaping company that does design, installation, and maintenance for commercial and residential customers. It has a reported total of 100 employees. In FY 2017, it employed 11 H-2B workers.

- In 2016, the Massachusetts Laborers' Benefit Funds filed a lawsuit alleging ERISA violations and of violating the collective bargaining agreement by failing to pay contributions, interest, and dues on behalf of employees who performed work under the CBA.
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Milcon Commercial Concrete, Inc.

Number of Certified H-2B Visas Past 3 Years: 10

Number of Certified H-2B Visas FY 18: 10 (Landscaping and Groundskeeping Workers)

Headquarters: Troy, Ohio

District Representative: Warren Davidson (R-OH-08); H-2B job site in Miamisburg, Ohio is located at the border of districts represented by Steve Chabot (R-OH-01) and Mike Turner (R-OH-10)

Milcon Commercial Concrete is a commercial contractor that performs concrete and excavation-related services. There is question that it improperly classified available jobs in its H-2B applications.

- The company applied and received certification for ten H-2B workers for FY 2018. The job called for landscape laborers to perform duties such as mowing lawns, blowing leaves, and hauling and spreading topsoil and mulch. The job description said nothing about concrete or construction work, which would necessitate a different occupation classification and potentially a different prevailing wage.
- In an affidavit, a rental housing landlord with multiple properties in Montgomery County, Ohio stated that he called Milcon to procure landscaping services, but was informed by a representative that they only do concrete and carpentry work. He stated that he was told he had called the wrong company for the types of services he was seeking.

Gire Roofing, Inc. / Grayson Enterprises, Inc.

Number of Certified H-2B Visas for Past 3 Years: None; received 71 in FY 2014 (Roofers)

Number of Certified H-2B Visas in FY 18: None

Headquarters: Champaign, Illinois

District Representative: John Shimkus (R-IL-15)

In 2018 the owner of the Illinois-based company Gire Roofing, Inc. and its corporate parent Grayson Enterprises, Inc. was found guilty of multiple counts of visa fraud after a federal trial.

- Grayson Enterprises, Inc. obtained 71 certified H-2B visas for roofing laborer positions in FY 2014.
- From 2011 to 2014, the owner submitted four petitions to DHS requesting H-2B workers. Attached to the petitions were multiple fraudulent contracts meant to justify the number of workers requested. Witnesses testified at trial that customers never agreed to the contracts and that the contracts forged their signatures.
- The court also found that the owner knowingly employed three undocumented immigrants while paying them less than the prevailing wage.

Kehrer Brothers Construction

Number of Certified H-2B Visas in the Past 3 Years: 180 (Roofers)

Number of Certified H-2B Visas in FY 18: 55

Headquarters: Albers, Illinois

District Representative: John Shimkus (R-IL-15)

Kehrer Brothers is a construction company based in Albers, Illinois. Following an OSHA investigation, the company and its owner were cited in 2015 for 16 egregious, nine willful, and six serious violations. It had an extensive prior history with OSHA and had been inspected 11 times from 2007-2015.

- Kehrer Brothers was fined nearly \$1.8 million for “willfully exposing” workers, many of whom came through H-2B, to remove asbestos without safety gear.
- The company failed to warn employees, some of whom spoke only Spanish, of the danger, and the owner threatened to fire them if they spoke with investigators.
- The company failed to train these employees to work around asbestos and failed to ensure that workers used appropriate methods to minimize exposure. They also failed to provide basic protective equipment such as hard hats, eyewear, and protective clothing.

As of FY 2018, Kehrer Brothers continues to receive H-2B certifications.